IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO. 1345 OF 1997

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge ?

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M/S. JAYLAXMI ESTATE - Petitioner(s)
Versus
STATE OF GUJARAT & ANR. - Respondent(s)

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Appearance :
Mrs. Vijaylaxmi for Shri B.S. Patel for Petitioner(s).
Shri M.R. Mengdey, Assistant Government Pleader for Respondent(s).

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 18/06/2007

ORAL JUDGMENT

The petitioners are challenging the proceedings initiated and continued under Section 211 of the Bombay Land Revenue Code, 1879 (“the Code” for short) on the ground that after the proceedings under

Section 84-C of the Bombay Tenancy and Agricultural Lands Act, 1948 have been dropped, the proceedings under Section 211 of the Code would not be maintainable.

2. In the opinion of this Court, if this defence is available to the petitioners, then, they are required to raise this objection before the concerned authority and satisfy the said authority that such proceedings under Section 211 of the Code would not be maintainable. This Court would not prejudge the issue when the alternative forum is available to the petitioners.

3. The petition is disposed of with liberty in favour of the petitioners that the petitioners shall appear before the concerned Officer on 24th July, 2007. Either on the said date or within the time extended by the said authority, the petitioners shall file their reply and would be permitted to raise objections in accordance with law. The concerned authority shall decide the matter in accordance with law and if the objections relating to the maintainability of the matter are specifically raised, then, the concerned authority shall be duty bound and obliged to decide the said objections and dispose of the matter by a speaking order. Rule is discharged. Interim relief, if any, is vacated. No order as to costs.

[R.S.Garg, J.]

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